

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AMBER HAGAN,	)	
Plaintiff,	)	
	)	No. 1:15-cv-454
-v-	)	
	)	HONORABLE PAUL L. MALONEY
CITIMORTGAGE, INC.,	)	
Defendant.	)	
	)	

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**OPINION DENYING WITHOUT PREJUDICE MOTION TO DISMISS**

Defendant CitiMortgage, Inc., originally filed a notice of removal from Kalamazoo County Circuit Court. (ECF No. 1.) Shortly thereafter, Defendant filed a motion to dismiss.<sup>1</sup> (ECF No. 12.)

The Court, in preparing to consider the motion, discovered that a complete copy of the complaint filed in state court was not filed with the notice of removal, and no copy appears in any other exhibits on the docket. Several references are made to pages and paragraphs not contained in any exhibits. (*Compare, e.g.*, ECF No. 20 at PageID.190 (“Plaintiff states in her Verified Complaint in paragraph 56, the misrepresentations recklessly made by Defendant’s representatives.”) *with* ECF No. 1-2 at PageID.21–22.) Thus, resolution of the motion is not possible at this time.

While the failure to file necessary copies with a notice of removal is not a jurisdictional defect, *see, e.g., Covington v. Indemnity Ins. Co.*, 251 F.2d 930, 933 (5th Cir. 1958), it is axiomatic that the Court receive “copies of all records and proceedings in . . . [s]tate court” prior to considering any motion. *See* 28 U.S.C. § 1447(b).

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<sup>1</sup> After several delays, Plaintiff filed a response (ECF No. 20), and Defendant filed a reply (ECF No. 21).

Thus, the Court **DENIES** Defendant's motion to dismiss **WITHOUT PREJUDICE**, and **ORDERS** Defendant to submit complete copies of all relevant state court records no later than **March 17, 2016**. The Court will permit Defendant to file a renewed motion to dismiss by that date; if a motion is not filed by that time, Defendant must file an answer.

**IT IS SO ORDERED.**

Date: March 8, 2016

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge